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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MARLENA BARRERA,

Defendant and Appellant.

A159466

(Napa County Superior Court  
Case No. CR168663)

Defendant Marlena Barrera was on a five-year grant of felony probation from 2014 theft convictions when the Napa County District Attorney's Office filed a motion to revoke her probation, alleging she had violated the terms of her probation by engaging in new, theft-related criminal conduct. After receiving a report from the Probation Department, the court terminated her probation unsuccessfully in light of its imposition of a state prison sentence in two other cases based, in part, on the same conduct underlying the motion to revoke. We recently affirmed that state prison sentence in *People v. Barrera* (July 16, 2020) A159344 (nonpub. opn.).

Defendant's counsel filed an opening brief asking that this court conduct an independent review of the record for arguable issues—i.e., those that are not frivolous, as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel also informed defendant that she had the right to file a supplemental

brief on her own behalf, but defendant declined to do so. We conclude there are no meritorious issues and affirm the judgment.

### **BACKGROUND**

As set forth in our earlier opinion, defendant was on felony probation for an embezzlement conviction when her employer discovered that she had made numerous unauthorized purchases using the company's credit card and the company owner's personal credit card. (*People v. Barrera, supra*, A159344.) When interviewed, defendant eventually admitted to making unauthorized purchases; the total loss amount was \$33,740.12. (*Ibid.*)

At the same time as she pled no contest in another pending case to charges involving child endangerment and maintaining a place for selling or using a controlled substance, defendant entered a no contest plea to one count of embezzlement of more than \$950 for the theft from her employer. (*People v. Barrera, supra*, A159344.) As noted above, the conduct supporting the embezzlement charge also formed the basis of the motion to revoke.

### **DISCUSSION**

Defendant's counsel filed a *Wende* brief, requesting that we independently review the record to determine whether it contains any arguable issues for appeal. Our review of the record, including our prior opinion, establishes that there are no meritorious issues to be argued.

Defendant was properly advised of her rights, knowingly and intelligently waived them, and admitted she had violated the terms of her probation as alleged in the motion to revoke. In light of the fact that defendant was on felony probation on embezzlement charges when she violated the terms of her probation by engaging in new and significant embezzlement from her employer, the court did not err in terminating defendant's prior grant of probation. (*People v. Sandoval* (2007) 41 Cal.4th

825, 847 [reviewing sentencing decisions for abuse of discretion; sentences must be based on “ ‘individualized consideration of the offense, the offender, and the public interest’ ”].)

Having examined the record to ensure that defendant receives effective appellate review, we find no basis to overturn the revocation of probation. (*People v. Wende, supra*, 25 Cal.3d 436.)

### **DISPOSITION**

The judgment is affirmed.

BROWN, J.

WE CONCUR:  
POLLAK, P. J.  
TUCHER, J.